

NATURAL RESOURCES COMMISSION
Meeting Minutes
December 19, 2007

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, December 19, 2007. The following Commissioners were present: Alexander Easterday, Chair, Montgomery Lovejoy, Jamie Bemis and Steve Verrill. Delia Kaye, Natural Resources Administrator, and Cynthia L. Gray, Natural Resources Administrative Assistant was also present.

CONTINUANCES:

TOWN OF CONCORD – Railroad Right-of-Way (Bruce Freeman Rail Trail) / ANRAD – Request for confirmation of wetland resource areas, DEP File #137-948

Alexander Easterday opened the hearing by asking for comments by each Commission member relative to this project. Delia Kaye stated a revised set of plans had been received this day prior to tonight's meeting that reflected primarily labeling changes. Two half-size copies were provided to Attorney Luke Legere of McGregor Associates at the meeting. Steve Verrill and Jamie Bemis noted that they were comfortable with the revised plans submitted by VHB. Montgomery Lovejoy suggested further discussion on Wetland 7. Alexander Easterday suggested further discussion on Wetlands 3, 3A, 7, and 8. Montgomery Lovejoy stated that a plan change should be made striking the word "intermittent" from "Limit of Intermittent Bank" at Wetland 3A. Delia Kaye noted that the calculations had been rerun the revised plans show Wetland 6 as Isolated Land Subject to Flooding (ILSF). The USGS map shows the stream through Wetlands 7 and 8 as a perennial stream but it appears to be intermittent based on four days of documented no flow. Montgomery Lovejoy noted that the situation is slightly complicated by potential well drawdown and noted the Commission should err on the side of caution. The Commission determined that the potential Mean Annual High Water at Wetlands 7 and 8 be flagged and shown on revised plans. Delia Kaye also noted receipt of the Natural Resources Report prepared by Vanasse Hangen Brustlin (VHB).

Luke Legere appeared with Patrick Garner of Patrick C. Garner Company, Inc. Luke Legere submitted to a request for continuance letter the Commission in order to give his law firm and Patrick Garner additional time to review the revised plan set Mr. Garner had general comments for the Commission consisting of a request that VHB identify all streams as actual streams and to show the non-jurisdictional stream between Wetland 3 and Wetland 3A.

NEW APPLICATIONS:

WEST CONCORD DEVELOPMENT, LLC - 54 Old Powdermill Road /ANRAD -

The applicant is seeking confirmation by the Natural Resources Commission of wetland resource areas boundaries on the property, **DEP File#137-959**

Larry Beals of Beals Associates and Rob Hewitt of Trammell Crow Residential (TCR) appeared on behalf of the applicant. Larry Beals noted that this project is currently in the design/development phase. Staff reviewed the delineation and requested minor changes, which have been completed but staff has not been able to review because of continued snow cover. The site consists of a field and previously developed areas. Wetlands are associated with the Assabet River at the base of a very steep slope. The wetland boundary crosses the town line into Acton. Delia Kaye asked whether the trails and open space currently along the Assabet River would connect to other trails in the area. Larry Beals indicated there were trails in the design and that he would look into this further. There may be a possibility that the applicant can coordinate connecting the trails with the Town of Acton. The Assabet River is mapped by the Natural Heritage and Endangered Species Program as rare species habitat.

This hearing was continued to January 9, 2008 in order to provide DNR staff the time to review the changes made in the field prior to the hearing.

CERTIFICATES OF COMPLIANCE:

ARENA FARMS (f/k/a Adams Builders) – 167 Fairhaven Road, DEP File #137-542

Rich Harrington of Stamski & McNary appeared with applicant, Nat Arena.

Montgomery Lovejoy moved to issue a complete Certificate of Compliance for the completed work and an Invalid Order of Conditions for the permitted work that was never constructed. Steve Verrill seconded. All so voted.

CLOSE HEARINGS / ISSUE PERMITS:

SLOAN - 309-317 Garfield Road- OOC, DEP File #137-874

Steve Verrill moved to close the hearing. Montgomery Lovejoy seconded. All so voted.

Montgomery Lovejoy moved to approve Findings A, B and C. Steve Verrill seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 19 through 45. Jamie Bemis seconded. All so voted.

NASHAWTUC COUNTRY CLUB – 1861 Sudbury Road - OOC, DEP File #137-958

Montgomery Lovejoy moved to close the hearing. Jamie Bemis seconded. All so voted.

Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 19 through 46. Steve Verrill seconded. All so voted.

OTHER BUSINESS:

Approve November 14, 2007 meeting minutes

Steve Verrill moved to approve the November 14, 2007 meeting minutes. Montgomery Lovejoy seconded. All so voted.

Approve November 28, 2007 meeting minutes

Montgomery Lovejoy moved to approve the November 28, 2007 meeting minutes. Jamie Bemis seconded. All so voted.

Approve December 5, 2007 meeting minutes

Tabled until the next scheduled meeting.

Dee Bus – 1135 Main Street Update

Delia Kaye reported she had viewed the site earlier in the day and the roll-off containers and absorbent pads remain onsite despite continued requests for their removal. The Department of Environmental Protection (DEP) is in a position to fine the owner, George Dee, \$1,000 per day until he complies with Chapter 21E requirements.

Marabello/Boston Bark

Delia Kaye noted that the Building Department, Health Division, and Division of Natural Resources have all received comments and complaints regarding odors and noise at the composting facility. Delia Kaye reported that she reviewed 2001 aerial site photos that appeared to show two ponds in the northwest corner, which were not visible on the 2007 aerial photos, appearing to have been filled in. John Minty, Building Commissioner, representatives from the DEP, Department of Agriculture, Boston Bark, John Marabello, and Delia Kaye attended a site visit in the late summer to review the site and its operations. At the site visit, large compost piles were in the location of the potential ponds, potentially encroaching towards a stream at the north of the property. John Marabello told the group that there had never been any ponds in that location for as long as he owned it (more than 20 years). Following the site visit, Delia Kaye reviewed 1960 aerials, which don't show any ponds onsite. She suggested that the 2001 aerials may have captured a high organic content of the compost, reflecting a similar signature as water. The State has since determined that the composting facility is an agricultural activity.

Jamie Bemis inquired about Marabello leasing to Boston Bark and whether that changed the actual use of the property relative to the agricultural permit issued to Marabello. It appears that the site has changed hands since the agricultural activity was established and that Marabello does not compost anything that is produced onsite. Compost material is trucked to the site. Delia Kaye noted that this is a probably a commercial use recognized under the Wetlands Protection Act because a product "grown" onsite is sold for profit, similar to purchased tomato seedlings grown in a greenhouse and sold when ripe. Delia Kaye suggested that the Commission conduct a site visit in the spring. The public has expressed concern with odor, noise, and traffic from the site. The Division of Health is responsible for resolving odor complaints if they exceed regulated levels.

Hubbard Brook Farmfield

Delia Kaye informed the Commission that the DNR and the Land Trust continue to pursue the joint APR/CR. The state and the town would co-own the APR, and the Land Trust would own the land. Recent conversations with the state APR Program indicate that they would prefer an APR on the field/cropland (approximately 15 acres) and a Conservation Restriction (CR) on the woodlands (approximately 3 acres). The Town's real property interest would be the CR.

Hugh Cargill Farm Task Force Update

Delia Kaye reported that the Hugh Cargill Farm Task Force has been discussing possible uses of the trust land. Baseball advocates are looking to site a premier Little League field here with

lights and dugouts. The original intent of the benefactor was that the land be used for the benefit of the poor. At its meeting this morning, the Task Force reached consensus that an informal playing field would be an acceptable use, provided no permanent structures are constructed. Other appropriate uses would be haying or mowing to retain the open nature of the land. All uses would need to conform to standards to protect the water quality of the Hugh Cargill well, as well as comply with Wetlands Protection Act performance standards for work in floodplain (at least). After discussion, there was consensus that the Commission was not in favor of a ball field in this location because it could open the door to a more permanent ball field in the future.

This meeting adjourned at 8:50 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant